NOVA SCOTIA UTILITY AND REVIEW BOARD

ACTIVITY REPORT

1993 - 2000

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NOVA SCOTIA UTILITY AND REVIEW BOARD

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INTRODUCTION

The Nova Scotia Utility and Review Board was established on December 14, 1992 under the **Utility and Review Board Act**. The **Act** combined four existing boards: the Board of Commissioners of Public Utilities, the Nova Scotia Municipal Board, the Expropriations Compensation Board and the Nova Scotia Tax Review Board. During 1992, the members of the four existing boards were cross-appointed to each board and sat on various hearings. In 1996 the Board was assigned responsibility to hear appeals from the Director of Victim Services. The Board was given jurisdiction with respect to the regulation of natural gas distribution under the **Gas Distribution Act** in 1997 and the regulation of pipelines under the **Pipeline Act** in 1998. In 2000 certain responsibilities from the Alcohol and Gaming Authority were assigned to the Board.

This activity report is submitted under **s. 33(1)** of the **Utility and Review Board Act** and describes the Board's activities for the period January 1, 1993 to December 31, 2000. The Board's audited financial statements are included in the annual public accounts for the Province of Nova Scotia.

STRUCTURE

Members

The Nova Scotia Utility and Review Board, as of December 2000, was composed of seven full time members.

- John A. Morash, C.A., Chair
- Margaret A. M. Shears, Vice-chair
- John L. Harris, Q.C.
- Linda D. Garber
- David J. Almon
- Roland A. Deveau
- Wayne D. Cochrane, Q.C.

The following individuals were full time or part time members of the Board for the periods indicated:

- Robert A. Robertson, F.C.A., Chair 1992 - 1996
- M. Heather Robertson, Q.C., Chair 1996 - 1998
- Charles J. McManus, P.Eng. 1992 - 1999
- Allan Green, Q.C., 1992 - 1998
- Michael Johnson, F.C.A. 1992 - 1996
- Richard L. Weldon 1992 - 1997
- William Skinner, C.A., Part time member, 1992 - 1998
- David Bryson, Q.C., Part time member, 1992 - 1993
- Sylvia Wedderburn, Part time member, 1994 - 1995
- Darce Fardy, Part time member, 1995 - 1996

Staff

The Board has a number of full-time staff, including a Board Administrator, a Regulatory Affairs Officer, an Appeals Officer, an Alcohol, Gaming & Amusements Officer, three Advisory Staff and support staff. Staff of the Board are public servants.

The Regulatory Affairs Officer, the Appeals Officer and the Alcohol, Gaming & Amusements Officer have each been designated as Clerk of the Board. They are responsible for receiving and processing all applications and appeals. They schedule the hearings, respond to questions from the public and handle distribution of Board decisions and orders.

The Advisory Staff deal with matters pertaining to electricity, water and natural gas.

The Motor Carrier division deals with public passenger transportation. The inspection staff are responsible for all physical safety inspections of public passenger vehicles, investigations and enforcement generally. Staff of this division are civil servants.

FUNCTION

The Board is an independent quasi-judicial body which has both regulatory and adjudicative jurisdiction flowing from the **Utility and Review Board Act**. The Board hears applications and appeals under various statutes including the **Public Utilities Act, Gas Distribution Act, Municipal Government Act, Assessment Act, Motor Carrier Act, Expropriation Act, Victims' Rights and Services Act, Insurance Act** and **Education Act**. In 2000 the Board was assigned jurisdiction to hear matters under the **Liquor Control Act, Gaming Control Act** and **Theatres and Amusements Act**. A more complete list of statutes under which the Board has jurisdiction is included as Appendix A.

In carrying out its responsibilities the Board travels throughout the province. It holds hearings in or near the municipality affected by the application or appeal. Many of the Board hearings are advertised in the local press. The Board uses telephone conferencing and video conferencing for some hearings. The Board has also conducted some of its hearings in French.

Board hearings are generally open to the public. Most hearings are one to two days in length (although the gas distribution hearing took 49 days). The Board often schedules evening sessions so that members of the public can more easily give evidence to the Board. The Board sits in panels of one, two, three or four members and occasionally has sat with five members. The hearings are recorded.

The Board is required to issue an order in respect of applications and appeals. Final decisions must be in writing and must include reasons for the decision. Orders of the Board may be appealed to the Nova Scotia Court of Appeal upon any question of its jurisdiction or upon any question of law.

The following are brief descriptions of the Board's work. For ease of reference, they have been categorized as regulatory or adjudicative in nature.

Regulatory

1. **Public Utilities Act**, R.S.N.S. 1989, c.380

The Board exercises general supervision of all water, electrical, steam heat as well as certain bus companies operating as public utilities within the Province. This includes setting rates, tolls and charges; regulations for provision of service; approval of capital expenditures in excess of $5,000 ($25,000 in the case of Nova Scotia Power Inc.); and any other matter the Board feels is necessary to properly exercise its mandate. In addition, the Board deals with public complaints which have not been settled by the utility. Nova Scotia Power Inc., an investor owned utility, is the largest public utility regulated by the Board.

The Board is required to set the rates, tolls and charges to be paid for use of the two bridges operated by the Halifax-Dartmouth Bridge Commission in a like manner to that of a public utility.

Appendix B is a list of Regulated Utilities.

Related statutes: **Halifax - Dartmouth Bridge Commission Act**, R.S.N.S. 1989, c.231 as amended; **Nova Scotia Power Privatization Act**, S.N.S. 1992, c.8.

2. **Gas Distribution Act**, S.N.S. 1997, c.4

The Board has authority to grant franchises for the distribution of natural gas in Nova Scotia. The Board exercises general supervision of the granted franchises.

Related statute: **Pipeline Act**, R.S.N.S. 1989, c. 345

3. **Motor Carrier Act**, R.S.N.S. 1989, c.292

The Board is responsible for the regulation of all public passenger carriers within the Province and interprovincial carriers operating to or from the Province. Carriers are broadly defined to include not-for-profit carriers, school bus operations, and van pools as well as commercial bus companies. The mandate includes licensing, setting fares, approving routes and stops, approving equipment for use, hearing complaints against carriers, and hearing applications for modification or discontinuance of service. The Motor Carrier Division of the Board also administers a comprehensive safety inspection program for all public passenger equipment.

Related statutes: **Motor Vehicle Transport Act, 1987**, S.C. 1987, c.35 (Federal); **Regional Transit Authority Act**, S.N.S. 1989, c.38

4. **Insurance Act**, R.S.N.S. 1989, c.231

Automobile insurance companies doing business in the Province are required to file their rates with the Board. Rates proposed for high risk drivers through the Facility Association must be approved by the Board. Insurers are not permitted to charge more than the rates filed with or approved by the Board. Additionally, the Board, of its own motion or when requested by the Provincial Secretary (the Minister of Justice), may hold an inquiry into auto insurance rates generally and direct adjustments based on its findings.

5. **Alcohol, Gaming and Amusements** (Jurisdiction since April 2000)

Liquor Control Act, R.S.N.S. 1989, c.260
The Board hears applications for permanent liquor licenses, transfer applications, requests to amend Board imposed conditions of license, etc. The Board also hears disciplinary/sanction matters respecting alleged violations of the **Liquor Control Act** and the **Liquor Licensing Regulations**.

Gaming Control Act, S.N.S. 1994-95, c.4
The Board hears appeals from decisions of the Alcohol and Gaming Authority staff and also hears disciplinary/sanction matters involving gaming licensees.

The Board also hears applications for reinstatement of access to the casinos by individuals who have voluntarily excluded themselves from the casinos.

Theatres and Amusements Act, R.S.N.S. 1989, c.466
The Board hears appeals of film classification decisions of the Alcohol and Gaming Authority, Film Classification Division.

Adjudicative

The Board has authority under a number of statutes to hear appeals from other decision making bodies. In addition, it has original jurisdiction with respect to matters respecting expropriation claims, municipal boundaries and electoral boundaries for municipal and school board elections.

1. **Municipal Government Act**, S.N.S.1998, c.18

The **Municipal Government Act** came into effect on April 1, 1999. It repealed both the **Planning Act** and the **Municipal Boundaries and Representation Act**. Many of the matters which the Board now hears under the **Municipal Government Act** were previously dealt with under those repealed statutes, described in 1(a) and (b) below.

a) **Planning Act**, R.S.N.S. 1989, c.346, as amended
The Board hears appeals from decisions of municipal councils dealing with rezoning and development agreements and from decisions of development officers respecting subdivision and development permits.

b) **Municipal Boundaries and Representation Act**, R.S.N.S. 1989, c.298
The Board hears applications to establish and amend the boundaries of municipalities and villages, as well as the incorporation and dissolution of towns. The Board is required to periodically review polling district boundaries and determine the number of councillors.

Related statute: **Shopping Centre Development Act**, R.S.N.S. 1989 c.427.

2. **Assessment Act**, R.S.N.S. 1989, c.23, as amended

The Board hears appeals from decisions of the Regional Assessment Appeal Courts respecting real property and business occupancy assessments and change of use tax levies.

3. **Education Act**, S.N.S.1995-96, c.156

The Board sets electoral district boundaries and determines the number of school board members.

4. **Expropriation Act**, R.S.N.S. 1989, c.156, as amended

Where a property owner and an expropriating authority cannot agree on the compensation

to be paid for expropriated land, an application can be made to the Board to set the value.

5. **Victims' Rights and Services Act**, R.S.N.S. 1989, c.14, as amended

The Board hears appeals from the decisions of the Director of Victim Services concerning compensation for certain expenses incurred by victims of crime. The Board was given this jurisdiction in 1994.

6. **Revenue Act**, S.N.S. 1995-1996, c. 17, as amended

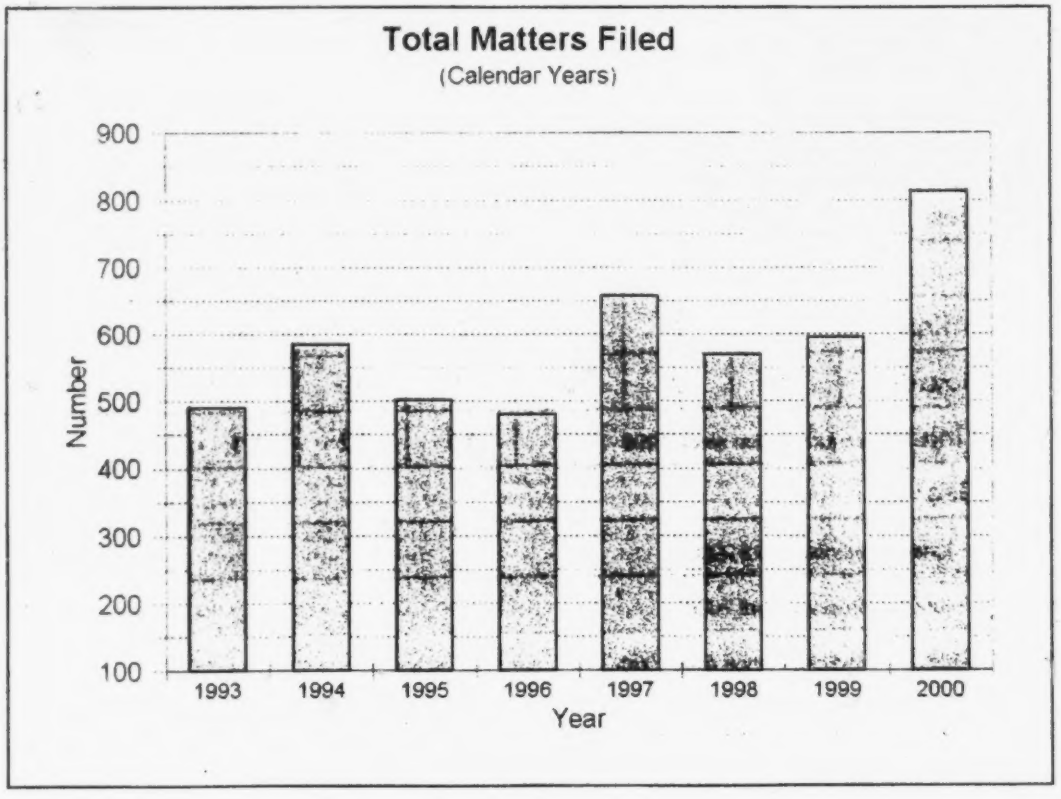
The Board hears appeals from decisions of the Provincial Tax Commissioner respecting assessments of sales tax, predating the introduction of the HST in April 1997, as well as tobacco tax and gasoline and diesel oil tax assessments.

ACTIVITIES

During its years of operation the Board has seen an increase in the number of matters that come before it. The following sections focus on some areas of the Board's activities. This report does not discuss the expropriation compensation applications and the criminal injury appeals heard by the Board, which tend to be specific to the parties and not of general application. The Board's decisions are distributed by subscription and are available on Quicklaw®. Decisions since 1999 are available on the Canadian Legal Information Institute web site (www.canlii.org).

The following graph and table depict the number of applications, appeals and requests for approval for all matters which the Board has received during each calendar year.

APPLICATIONS / APPEALS / REQUESTS FOR APPROVAL 1993 - 2000



APPLICATIONS / APPEALS / REQUESTS FOR APPROVAL

1993 - 2000

Subject Matter	1993	1994	1995	1996	1997	1998	1999	2000
Assessment	40	126	63	35	285	174	98	122
Planning	44	57	42	38	27	32	15	32
Electric Utilities NSPI	7 229	3 219	14 181	5 121	19 50*	20 54*	14 46*	14 26*
Water Utilities	25	23	15	89	92	113	135	107
Public Passenger	68	63	70	75	87	99	129	128
PP -Temp. Authorities	n/a	43	64	50	55	49	69	63
Municipal Boundaries	27	7	6	3	5	5	59	0
Tax	27	35	38	41	25	10	10	2
Expropriation	2	7	9	7	1	4	1	1
School Boards	21	2	0	7	0	0	0	8
Criminal Injuries - jurisdiction since 1996				10	12	11	15	10
Natural Gas							4	21
Alcohol - jurisdiction since April 2000								172
Gaming - jurisdiction since April 2000								22
A & G Other - jurisdiction since April 2000								85

*In 1996 NSPI began filing an Annual Capital Expenditure Plan

Regulation of Nova Scotia Power Inc.

Nova Scotia Power Inc. (NSPI) is a fully-integrated public utility incorporated under the **Nova Scotia Companies Act**. It is the successor to the Nova Scotia Power Corporation ("NSPC"), a crown corporation owned by the Province of Nova Scotia. On January 9, 1992 the government of Nova Scotia announced its intention to sell a controlling interest in NSPC to private investors and thereby privatize the Corporation. The **Nova Scotia Power Privatization Act**, S.N.S. 1992, c.8, provided for the reorganization of NSPC and NSPI and for the transfer of the assets of NSPC, except the sinking fund assets in respect of the public debt of NSPC, to NSPI as a going concern. The **Act** came into force on August 10, 1992 and the privatization process was completed on August 12, 1992.

As of January 1, 1999 NSPI became the principal subsidiary of a holding company, N.S. Power Holdings Incorporated, which is now known as Emera Incorporated.

NSPI generates, transmits and distributes electricity province-wide. At December 31, 2000 the nameplate capacity of its generation plant was approximately 2200 megawatts, the net book value of assets approximately $2.32 billion, and the 2000 revenues were approximately $819 million. NSPI serves approximately 442,000 customers including six municipal electric distribution utilities.

The following section summarizes the more important NSPI applications dealt with by the Board in the period 1993 to the end of 2000.

General Rate Application - 1993

NSPI sought rate increases averaging 3.9% over the customer base with increases for the different customer classes ranging from 3.3% to 4.0%. It requested a return on common equity of 12.75%. The Board determined in its decision dated March 24, 1993 that a return on common equity in the range of 11.50% to 12.00% would be reasonable with rates being determined on the basis of a return on common equity of 11.75%. It noted that it had previously directed that customer cost recovery ratios move into the target range of 95% to 105%. It approved rate increases which brought the ratios closer to the target range. The maximum rate increase allowed was 3.5%. It ordered a reduction in the Small Industrial rate of 10% and a reduction in the Medium Industrial rate of 8%.

In other rulings, the Board directed that charitable contributions should not be included in the revenue requirement recoverable from customers, that the Company be permitted to defer the accounting recognition of portions of the interest and depreciation charges relating to the Pt. Aconi generating station into future accounting periods and that an appropriate capital structure would consist of 8% to 10% for preferred share capital and 33% to 35% for common equity.

Demand-Side Management (DSM) Hearing

The Board held a hearing in December 1992 to receive evidence and consider NSPI's existing and possible future DSM programs. Evidence presented at the hearing included such matters as the benefits and costs of DSM, demand limiting and load shifting technologies and the use of time of use rates and methodologies for tracking the success of DSM programs.

The Board's principal finding in its decision issued on April 8, 1993 was that a comprehensive approach to integrated resource planning (IRP) best ensures the appropriate least cost mix of supply and demand-side options. It directed NSPI to file an IRP with the Board by September, 1995. It permitted NSPI to defer certain rebate-driven DSM programs for three years in view of a revised load forecast presented by NSPI which indicated that the future demand for electricity in Nova Scotia would be significantly less than previously estimated. However, the Board directed NSPI to continue to pursue programs that would target DSM opportunities that might otherwise be lost, examples being the promotion of energy efficient home construction, the "Power Smart" program and the promotion of energy efficient household appliances.

In a departure from past practice, the Board awarded nominal costs to the Ecology Action Centre and to Solar Nova Scotia who appeared as formal intervenors. The Board indicated that their intervention contributed to a better understanding of the issues before the Board.

In a subsequent Order dated March 8, 1994 the Board set out detailed filing requirements for the IRP to be submitted by NSPI.

Cost of Service and Rate Design Hearing

In a decision dated September 22, 1995 the Board determined that NSPI should use a "3 Coincident Peak" method for allocating the demand portion of the fixed costs of generation and transmission plant to the customer classes; that generation costs associated with environmental compliance and fuel conversion be classified as energy related; that the annual system load factor be calculated on the basis of gross energy generation and annual coincident peak including interruptible load; that the remaining costs of generation be classified as demand related; that the portion of transmission fixed costs classified as energy related be determined by the annual system load factor; that NSPI provide at future rate hearings the long run marginal cost of demand and energy at the point of generation and at various voltage levels in the system and that future cost of service studies contain complete details of the methods used to determine class load factors, intraclass coincidence factors, interclass coincidence factors, system loss factors and details of supporting load surveys.

Industrial Expansion Rate

In a 1995 application NSPI requested approval of an interruptible type rate which would be available to new or expanding industrial loads which, for any customer, equalled or exceeded 30,000 kVA maximum demand. Metering would be at the 138 kV level. The rate would only be available in circumstances where projected revenues exceeded, on a net present value basis, projected incremental costs over a 15 year period. Accordingly, the rate would be granted for a 15 year term.

In support of its application, NSPI submitted that NSPI currently had surplus generating capacity because demand had not developed as anticipated and that consumption would continue to grow at a low rate for an extended period. The proposed rate was designed to promote increased usage thereby reducing the surplus capacity and spreading fixed costs over more units of sales. The rate was designed to recover the full incremental costs over the 15 year planning horizon and revenues in excess of short-run marginal costs in the short run.

The Board issued its decision on December 22, 1995. The Board agreed that a properly designed expansion rate of the type proposed could be advantageous to all of NSPI's customers. It lowered the threshold to qualify for the rate to 5 MVA to make the rate available to a larger number of customers and it reduced the term of the rate to 10 years as it considered that there was too much risk associated with a 15 year term. In an attempt to prevent free riders, it required the addition of a clause to the rate requiring NSPI to show that in the absence of the rate the new load would not materialize and required that new applications be subject to the approval of the Board.

In addition, with a view to extending the goal of expanding the use of NSPI's surplus capacity, the Board approved two additional rates: a Time-of-Day Expansion Interruptible Rate and a Surplus Power Interruptible Rate with an expected termination date of December 31, 2000, both of which would be available to customers who increase their loads by a minimum of 2 MVA.

Depreciation Rates

By Order dated January 26, 1996, following the filing of a depreciation study of NSPI's plant in service as of December 31, 1994, the Board approved a table of annual depreciation rates effective January 1, 1996. The resulting composite depreciation rate was 2.76% compared to the previous composite rate of 2.93% based on plant in service at March 31, 1992.

General Rate Application - 1996

In its August, 1995 application for a general increase in rates, NSPI requested an average rate increase of 3% with increases by customer class ranging from 0.6% for the Municipal class to 4.8% for Domestic customers. It asked for a return on common equity of 12%.

In its decision dated March 4, 1996 the Board determined that a return on common equity in the range of 10.5% to 11.0% was reasonable. It directed that rates be determined on the basis of a return on equity of 10.75%. The Board confirmed its previous view that a range of 8% to 10% for preferred share capital and a range of 33% to 35% for common share capital is appropriate for NSPI's capital structure. In the result, the Board approved an average rate increase of 1.85%. The approved rates resulted in revenue-cost ratios ranging from 94% for Domestic customers to 114% for Small Industrial customers. The Board directed that in future rate applications, NSPI should propose rates within the 95% - 105% band.

NSPI requested the addition of a third block to the energy charge of the Domestic Rate. The Board rejected this proposal and determined that the domestic class is best served by a single block rate. The Board stated that such a rate structure is more easily understood by the customer and that there was not justification for decreasing rates for loads which contribute to peak system load. In addition, the Board was concerned about the disproportionate increase in bills that would be experienced by low-consumption domestic customers. The Board approved an optional Domestic Service Time-of-Day Rate based on the recommendation of its consultants. The rate is available only to domestic customers employing electric thermal storage equipment. Among other changes in the proposed rates, the Board combined the Large Industrial and Interruptible classes into a single class with a demand credit to interruptible customers.

The Board determined that the costs of the Company's management incentive plan should be shared equally between shareholders and customers. It also disallowed from the Company's revenue requirement the costs of various sponsorship programs in accordance with the Board's policy set out in its 1993 general rate decision.

Power Outage Report

Nova Scotia was struck by a severe winter storm in late November, 1997 which resulted in a large number of customers losing power for varying periods of time. The Board directed its staff to carry out an independent review of the outages. The Board published its findings in a report dated February 9, 1998. As part of its report, the Board issued a number of directives concerning such matters as staffing levels, inspections and maintenance practices, distribution system reliability and power outage logistics. NSPI filed responses to the Board's directives and the Board issued a follow-up report dated March 6, 2000.

Sale of Kentville Electric Commission to NSPI

In 1998 the Town of Kentville and NSPI jointly applied to the Board for the approval of the sale of the Kentville Electric Commission to NSPI. While the Board was not persuaded that the Commission could not continue as a viable entity it found in its decision dated October 2, 1998 that there would be positive benefits for the parties to the transaction and to Kentville electric customers. The Board approved the agreed purchase price of $13.3

million finding that it resulted from an arm's length negotiation. The Board declined to approve the inclusion of the purchase premium of $3.8 million over the net book value of the assets nor did it approve the amortization of the purchase premium as a cost of service expense. The Board approved a phase-in of rate increases for certain customer classes in order to bring them up to the level of NSPI rates.

Load Retention Rate

The Board approved an application by NSPI to add a Load Retention Rate to its Tariff in a decision dated May 24, 2000. The arrival of natural gas in Nova Scotia is making it more attractive for large electricity users to consider leaving NSPI's system and generate their own electricity. With an appropriately discounted rate it is possible to retain such customers yet leave other customers better off than they would be if the large customers left the grid. The rate approved by the Board requires applicants to show that their opportunity to use an alternative supply of power and energy is both technically and economically feasible, that retaining the customer's load is better for other customers than losing the load and that the revenue from the customer on the rate will be greater than the incremental cost to serve the customer and shall make a significant positive contribution to fixed cost. The rate is available to customers who are considering an alternate supply of at least 2,000 kVA or 1,800 kW. As of the end of 2000, no customers had applied to take service under the rate.

Time-of-Use, Real Time Price Rate

By application dated February 1, 2000 NSPI applied for approval of a set of real time pricing rates to be offered on an optional basis to customers having loads of 2,000 kVA or 1,800 kW or greater. NSPI submitted that qualifying customers would benefit by being able to control the timing of their loads and thus their costs and NSPI would benefit from peak reduction and load shifting. It anticipates that the rate will encourage the better utilization of its fixed assets thereby lowering costs to all customers. The rate has two elements: NSPI's actual hourly marginal energy costs, plus on-peak and off-peak fixed cost adders designed to recover the embedded costs of service. The amount of the adders varies with the voltage level at which the customers on the rate take service.

The Board approved the real time rates as submitted by NSPI. It noted that there could be revenue losses from the rate notwithstanding its beneficial effects, and stated that it would determine how any such losses would be recovered at a future general rate hearing once the rate had been in effect for three years. The Board found that the eligibility criteria for the rate were a suitable starting point but it recognized that over time it might be desirable to broaden access to the rate.

Regulation of Water Utilities

As of the end of 2000, the Board regulated 59 water utilities, all of which were municipally owned and operated. Each of these water utilities had schedules of rates and regulations

approved by the Board. Several of the smaller water utilities had fewer than 100 customers while the Halifax Regional Water Commission had about 70,000 customers.

The Board must approve all amendments to rates and regulations and generally requires a public hearing, especially if the utility is proposing an increase in rates. The Board also investigates customer complaints against utilities. The Board's focus is on whether the utility has followed Board-approved regulations in its dealings with customers.

Water utilities wishing to undertake capital projects must receive Board approval in advance for capital expenditures over $5,000. The Board assesses, among other things, the need for the proposed project, the reasonableness of the expenditure based on the cost estimate and the supporting technical information, and the financial impact on the utility and its customers of the capital project. In some cases, capital projects are sufficiently large that the utility must apply for an increase in rates in order to be able to pay the funding costs of the project.

Major Water Utility Decisions

Amalgamation of Halifax Regional Municipality Water Utilities

Effective April 1, 1996 the former municipalities of the City of Halifax, the City of Dartmouth, Halifax County Municipality and the Town of Bedford were amalgamated to form the Halifax Regional Municipality (HRM). The amalgamating statute, the **Halifax Regional Municipality Act**, S.N.S. 1995, c. 3. provided that the Halifax Water Commission would continue under its existing corporate identity but with a new name, the Halifax Regional Water Commission (HRWC). Pursuant to a motion of the Council of HRM, passed April 16, 1996, the assets of the former City of Dartmouth Water Utility and the Halifax County Water Utility were transferred to the HRWC as of March 25, 1997.

HRWC thereupon applied to the Board to consolidate and standardize the rates and regulations for the three amalgamated water utilities. In its decision dated February 20, 1998, the Board accepted HRWC's proposal that rates be standardized to those charged by the former Halifax Water Commission. Residential rates for former Dartmouth customers went up about 16% while rates for former County Utility residential customers declined by about 11%. There was thus no change for former Halifax Water Commission residential customers. The Board noted that former Dartmouth customers would soon experience improved water quality with the completion of the Lake Major water treatment plant. Given that the new HRWC had been formed as the result of an amalgamation of three former utilities and that it was projecting significant future increases in operating expenses, the Board ordered that an independent operations audit be conducted on the Utility. The final report on the operations audit was filed with the Board in October, 1998.

Amalgamation of the Cape Breton Regional Municipality Water Utilities

The Cape Breton Regional Municipality (CBRM) was established on August 1, 1995 pursuant to the **Cape Breton Regional Municipality Act**, S.N.S 1994, c.3. The Cape Breton Regional Water Utility was formed as of the same date and it took over the operation of the eight existing water utilities in the County of Cape Breton. These were the Sydney Water Commission, the New Waterford and District Water Commission and the water utilities of the towns of Dominion, Glace Bay, Louisbourg, North Sydney, Sydney Mines and the Municipality of the County of Cape Breton Water Utility. The existing rate schedules and regulations of the former utilities continued unchanged. CBRM applied to the Board on behalf of its amalgamated water utility for approval of new rates. The intent was to standardize both the quality of water and the rates over a five year period, with annual changes in rates over that period. At the end of a phase-in period it was anticipated that the areas formerly served by the eight utilities would receive water of the same quality. In its decision dated June 29, 2000, the Board accepted the principle of rate standardization and standardization of service quality, but declined to approve rates for more than two years. It noted that cost estimates for future capital projects had not been finalized and that costs and service demands could change significantly over the five year period. The Board also directed the Utility to file a report in 2001 outlining the progress made in implementing the recommendations made by a management consultant group in a 1996 report to the Utility.

Capital Cost Contributions and Service Extensions

Several areas of Halifax County have experienced rapid growth and development in recent years necessitating substantial capital expenditures to expand water services. Financial assistance from the three levels of government is no longer available to the extent it was in the past. Capital cost contributions based on the user pay principle are required to ensure that present customers of a utility are not unfairly burdened with the capital costs of infrastructure, such as new transmission lines, needed to extend water service to new areas. The former Halifax County Water Utility was one of the first water utilities to request the introduction of capital cost contribution charges into utility rate and regulation schedules.

In a decision dated March 26, 1996, the Board authorized the Halifax County Water Utility to add a regulation which provided for capital cost contributions from developers based on a formula developed by KPMG Management Consulting and W.H. Gates Utility Consultants Limited. The formula is designed to be revenue neutral and is based on the principle that users of a service or the beneficiaries of a capital expenditure are the ones who should pay for it. It allocates the capital cost of infrastructure projects to the municipality for fire protection services, to the utility itself for that portion of the remaining cost which is beneficial to all existing customers, to developers for their share of the total infrastructure charges, and to future customers for the balance of the costs. Developers also continue to be responsible for the construction costs of distribution systems incurred to service their specific developments. The intent is that the cost of new water

infrastructure will be borne in the appropriate portions by the beneficiaries of the required capital expenditure.

Following the amalgamation of the Halifax County water utilities described above, and following an eight day hearing, the Board in a decision dated June 19, 1998 extended the application of the "Gates Formula", as the above approach came to be known, to areas formerly served by the Dartmouth Water Utility and Halifax Water Commission. The formula approved by the Board incorporated a "density factor" which had not formed part of the formula approved for the County Utility in 1996. The Board also approved the actual capital cost contributions charge for the Bedford South Water Service District in the amount of $4,621 per acre.

New Water Utilities

A water utility is only subject to regulation by the Board if it provides water "directly or indirectly to or for the public". If so, it is recognized by the Board and regulated as a "public utility". From time to time the Board receives applications to approve rates and regulations from the owners of water systems which have not previously been regulated under the **Public Utilities Act**. If the Board is satisfied that the water system in question qualifies as a "public utility" the Board usually gives interim approval of rates and regulations for the utility pending final approval without the necessity of a public hearing or notice.

During the period 1993-2000 the Board granted interim approval of rate schedules for the following newly recognized public utilities: Little Narrows (1997), Cornwallis Park (1999) and Neil's Harbour (2000).

Water Treatment and Quality

The Board has noted an increased number of capital expenditure requests for approval of new water treatment facilities in recent years. These requests are frequently followed by applications for rate increases due to the large capital costs of these projects. It is anticipated that this trend will continue as the requirements under the Canadian Drinking Water Guidelines become more stringent. It should be pointed out that the Department of Environment and Labour is charged with the responsibility to establish and enforce health and safety regulations with respect to public drinking water. The Board has an indirect role in the regulation of water quality as the **Public Utilities Act** authorizes the Board to investigate the safety and adequacy of service by a public utility. However, the focus of the Board's regulatory power over public utilities, including water utilities, is the regulation of rates and regulations and the general supervision of the activities of utilities so as to ensure sound management and the provision of reasonably safe and adequate service at reasonable rates.

Regulation of Natural Gas

Pipeline Act and Regulations

The **Pipeline Act** directs the Board to exercise control over the manner in which gas and oil pipelines are constructed, tested, maintained and operated. No person shall construct a pipeline except pursuant to a permit issued by the Board and no person shall operate a pipeline except pursuant to a license issued by the Board. Permits and licenses may contain such terms and conditions as the Board considers appropriate or as are prescribed by the **Pipeline Regulations (Nova Scotia)**.

The powers and responsibilities of the Board under the **Pipeline Act** were formerly vested in the Energy and Mineral Resources Conservation Board (Energy Board). The Energy Board delegated its authority to the Utility and Review Board by Order in Council 1999-372 which took effect on September 1, 1999. (The **Pipeline Act** was amended in 2002 to formally vest the powers set out above in the Utility and Review Board.)

Acting as delegate of the Energy Board, the Board issued a license to Sable Offshore Energy Inc. (SOEI) on December 23, 1999 to operate and maintain a natural gas liquids (NGL) pipeline from the SOEI gas plant at Goldboro, Guysborough County to the SOEI fractionation plant at Point Tupper, Richmond County. One of the terms of the License was that the line be operated in accordance with the restrictions and conditions recommended by the Certifying Authority, Lloyd's Register. Other licenses issued in 1999 and 2000 to SOEI were for the Subsea Pipeline, Goldboro Gas Plant and the Natural Gas Liquids Line.

Following a Request for Proposals, the Board retained the services of Energy Consultants International (ECI) of Winnipeg, Manitoba as its Certifying Authority to monitor and evaluate SOEI's compliance with its NGL license. ECI also acted as the Board's Certifying Authority with respect to the issuance of a permit to construct to Sempra Atlantic Gas and subsequent amendments to the Permit. Pursuant to another RFP issued by the Board, SNC Lavalin Inc. acted as the Board's Certifying Authority with respect to the SOEI Fractionation Plant. It provided the Board with a report dated November 2000 and certified to the Board in a letter dated December 14, 2000 that the plant was constructed and was being operated in accordance with the **Pipeline Act** and generally accepted industry standards.

Gas Distribution Act and Regulations

The **Gas Distribution Act** provides a framework for the "orderly development and operation of a gas delivery system" in Nova Scotia. The principal duty of the Board under the **Act** is to grant gas distribution franchises and grant licenses to market natural gas. Franchise awards are subject to the approval of the Governor in Council. The Board must be satisfied that the granting of a franchise is in the public interest. Among the factors that

the Board is directed to consider on a franchise application is the demand for natural gas service, the availability of natural gas, the economic feasibility of the proposal and the financial capability of the applicant.

The **Gas Distribution Regulations (Nova Scotia)**, made by the Governor in Council in 1998, set mandatory "distribution targets" which required that access to natural gas be provided to at least the designated number of households in each County in the Province within seven years. The distribution targets for each County were set out in the Regulations.

The Board held a 49 day hearing from April to July, 1999, to consider applications for gas distribution franchises. There were two applicants for province-wide franchises, Maritimes NRG (Nova Scotia) Limited and Sempra Atlantic Gas Incorporated along with several applicants for franchises limited to specific geographic areas of the Province. The Board awarded a province-wide franchise to Sempra Atlantic on November 16, 1999. The Board's decision was confirmed by the Governor in Council on December 16, 1999.

The Board held a further hearing in June, 2000 to receive public input on issues relating to the sale of natural gas to consumers by gas marketers. The Act prohibited the sale of natural gas to a "consumer" in the Province unless licensed by the Board. The **Board Gas Distribution Regulations (Nova Scotia)** defined a consumer as a person using less than 500 gigajoules a year. The Board permitted the parties to form a joint Working Group which filed a report prior to the hearing. The Working Group reached a consensus on a number of issues, although not all, which was helpful to the Board. The Board issued its decision on September 15, 2000.

The Board issued an Order dated November 17, 2000 dismissing an application by the Canadian Oil Heat Association (COHA) for costs arising from the gas franchise hearing. While the Board acknowledged the helpful contribution made by COHA to the hearing, it concluded that COHA's principal role was to advance the commercial interests of its members and not to protect the public interest and that its members could not reasonably be described as having limited financial resources.

Sempra began its construction program in 2000 pursuant to a Permit to Construct issued on October 6, 2000. The permit covered the construction of a gas delivery system in the Burnside Industrial Park and in the Crichton Park- Brightwood area of Dartmouth. The Board issued several amendments to the Permit in 2000 as set out in the following table:

Sempra Atlantic Gas - Permits Issued			
Permit to Construct (Year 2000 Plan)			
SEM-00-16	Burnside Industrial Park		Oct. 6, 2000
SEM-00-16(1)	Crossing M&NE Pipeline	Amendment 1	Nov. 9, 2000
SEM-00-16(2)	Install residential service	Amendment 2	Nov. 9, 2000
SEM-00-16(3)	Burnside & Brightwood Areas	Amendment 3	Nov. 17, 2000

Sempra ultimately laid about 15 kilometres of distribution pipe in these areas of Dartmouth.

Regulation of Public Passenger

The Motor Carrier Division provides public passenger vehicle licensing, inspection and enforcement services pursuant to the **Motor Carrier Act**. School buses are classified as public passenger vehicles and along with all other public passenger vehicles are inspected twice a year by the inspection staff of the Motor Carrier Division. In addition to inspecting public passenger vehicles, the staff inspects certain passenger vehicles which do not carry passengers for gain. At the end of 2000 the Division employed 10 inspectors and had an office staff of four. The Motor Carrier Division conducted over 4000 separate public passenger vehicle inspections in 2000. Most of the vehicles were buses but the Division inspected many vans as well.

Traditional bus services, such as Scheduled Passenger, Charter and School Bus Services have all undergone change. Notably, in the summer of 1994, Acadian Lines Limited, Nova Scotia's largest supplier of scheduled services, applied for and received the Board's approval to abandon its service between Amherst and Truro via Parrsboro. The service was picked up by Bluenose Transit Incorporated, but 16 months later the service was abandoned by Bluenose Transit Incorporated. Several other scheduled services operated by Acadian Lines Limited were adjusted during the 1990s in an attempt to reduce the declining ridership and stabilize route services.

In 1998, MacKenzie Bus Line Limited applied to the Board to abandon its scheduled services between Halifax and Yarmouth, via the South Shore. During the public hearing process a Newfoundland based company, DRL Coachlines Ltd., intervened and indicated that, if the application by MacKenzie Bus Line Limited should be granted, DRL would be prepared to continue to provide a scheduled service between Yarmouth to Halifax, provided it was also granted the broad charter license held by MacKenzie Bus Line Limited. In light of DRL's interest in continuing to provide service to the South Shore, MacKenzie's abandonment application was approved and DRL's temporary authority application was granted. DRL Coachlines Ltd. then applied to have the temporary authority become permanent and on February 1, 1999 a permanent operating authority was issued.

The charter market has experienced steady growth since 1992. The number of visitors

to Nova Scotia has increased, and the cruise ship operators have discovered Atlantic Canada. The bus transportation companies have successfully responded to the challenge of providing sufficient buses to accommodate cruise ship passengers wishing to take sightseeing excursions.

Since 1992, the charter side of the bus industry has become more competitive while continuing to be regulated. Ninety-eight applications for new licenses or amendments to existing licenses were granted during this period. At the same time, the Board granted 26 new extra-provincial licenses under the **Motor Vehicle Transport Act, 1987** (Federal).

School bus transportation has also undergone considerable change. Amalgamation of school boards and contracting out of school bus services by some school boards have changed the demographics of the industry. The average size of the school bus fleets has greatly expanded. Where formerly a typical fleet consisted of 30-40 buses, fleets of 100 to 250 vehicles are now common. The Motor Carrier Division has responded by changing territories and reorganizing staff to meet the demands placed on it by these changes.

The Motor Carrier Division has at the same time assumed responsibility for the semi-annual inspection and monitoring of some 200 transit buses operated by Metro Transit. Metro Transit serves Halifax Regional Municipality and is Nova Scotia's largest transit operator.

The Motor Carrier Division has participated in the development of a standard school bus bulk purchase specification for all government controlled school bus operations in Atlantic Canada. This endeavour has, since 1994, resulted in hundreds of thousands of dollars in annual savings for Nova Scotians.

The Board licensed the first amphibious vehicle under temporary authority to service the tourism industry in 1999. A number of operators in the adventure tourism and eco tourism markets obtained motor carrier licenses in the 1990s.

In 1998 the **Board Public Passenger Motor Carrier Act Regulations** were amended to establish operational guidelines and minimum insurance requirements for volunteers who provide school transportation using privately owned vehicles. The process of developing the regulations demonstrated the ability of the Motor Carrier Division, school boards and the insurance industry to work together to ensure that volunteers and students travelling to school-related activities have the benefit of adequate insurance coverage and enhanced operating standards.

At the request of the Department of Community Services in the early 1990s the Motor Carrier Division began inspecting all vans and buses operated by facilities licensed by the Department of Community Services facilities. The number of units operated by such facilities grew steadily through the 1990s.

Planning Appeals

The **Municipal Government Act** permits appeals to the Board from decisions of municipal councils respecting land-use by-law amendments, rezonings and development agreements and from development officer decisions refusing to issue development permits or to approve plans of subdivision. Prior to the coming into effect of the **Municipal Government Act** on April 1, 1999 such appeals were made under the **Planning Act**.

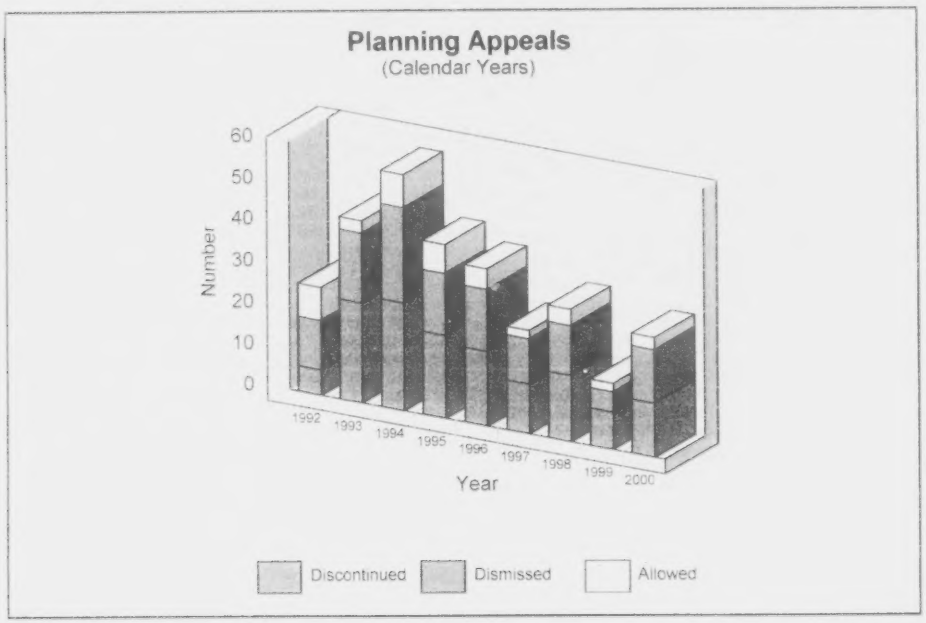
The following tables and graphs provide some information on the number and type of planning appeals filed with the Board.

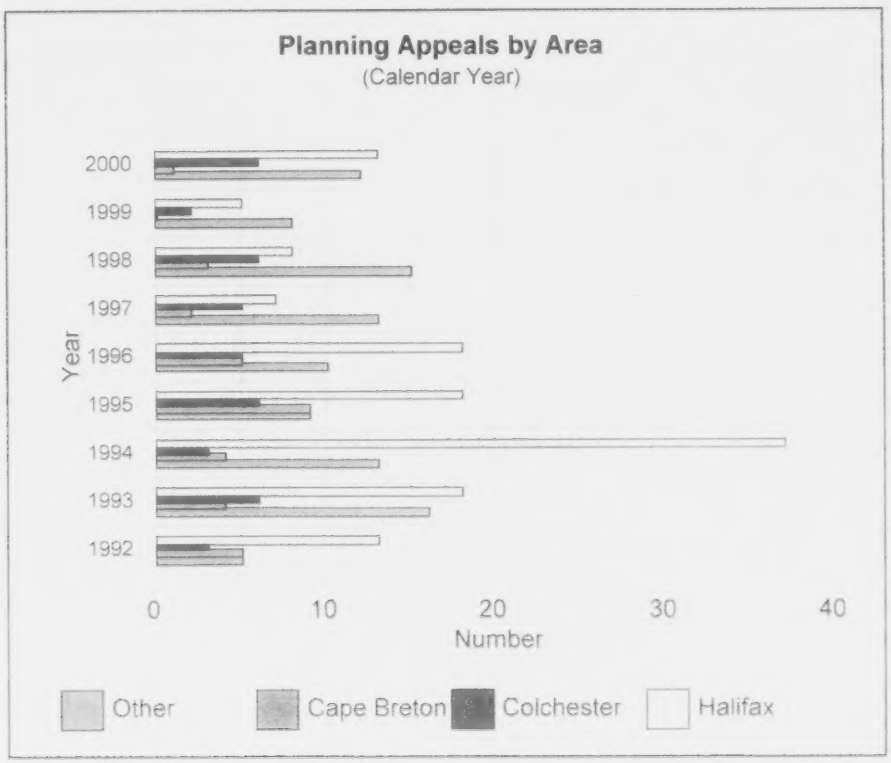
Planning Appeals Filed, Allowed, Dismissed and Discontinued by Year

Year Filed	Total	Allowed	Dismissed	Discontinued
1993	44	3	17	24
1994	57	8	23	26
1995	42	7	15	20
1996	38	5	15	18
1997	27	2	11	14
1998	32	4	12	16
1999	15	2	3	10
2000*	32	4	12	15

*** one matter still outstanding**

Breakdown of planning appeals by outcome per year

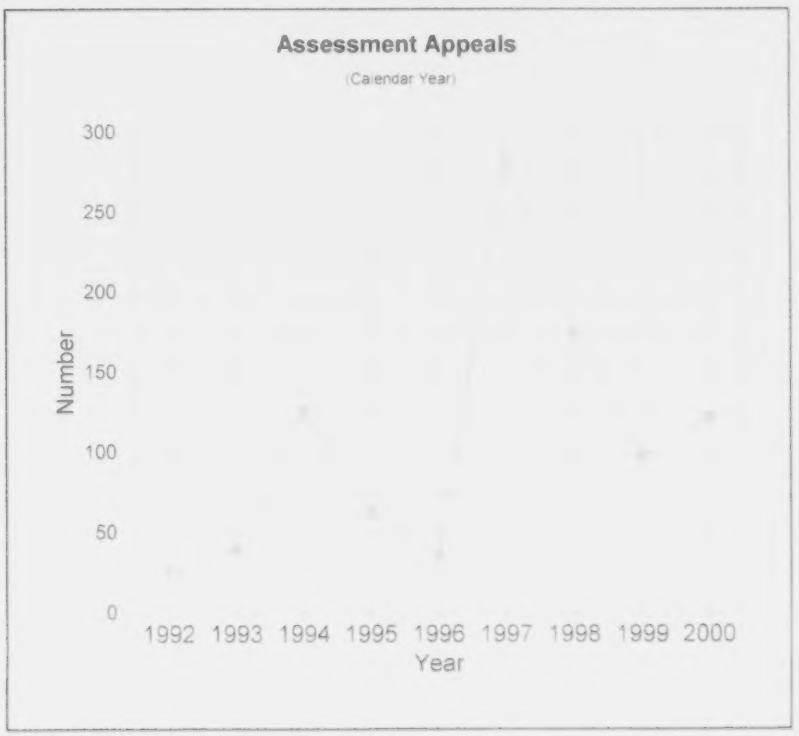




Assessment Appeals

The Board hears appeals under the **Assessment Act** from decisions of the Regional Assessment Appeal Courts (R.A.A.C.). Assessments are revised yearly by the Director of Assessment. The number of appeals has varied from year to year. Most of the appeals filed with the Board are with respect to valuation. The R.A.A.C. and the Board also have jurisdiction to consider late appeals, adding to or striking from the assessment roll, and changing the classification of property. The following graph depicts the assessment appeals filed with the Board per year.

Number of Assessment Appeals Filed each calendar year



Review of Municipal Polling Districts and School Board Electoral Districts

The **Municipal Government Act** requires the Board to periodically review the number and boundaries of municipal polling districts and the number of councillors. The Board must consider the number of electors, relative parity of voting power, population density, community of interest and geographic size. Prior to the coming into effect of the **Municipal Government Act** on April 1, 1999, such hearings were conducted under the **Municipal Boundaries and Representation Act**.

During the fall of 1993 and the winter and spring of 1994 the Board conducted reviews of the municipal polling districts of the 24 rural municipalities. Hearings were held throughout the province. After considering the Supreme Court of Canada decision **Reference Re: Electoral Boundaries Act** (1991), 81 D.L.R. (4th) 16, [also referred to as the **Carter** decision] and the 1991 report of the Nova Scotia Electoral Boundaries Commission, the Board determined that for purposes of these reviews (and also reviews of school board electoral district boundaries) a variation of ± 25% from the average number of voters per elected official would be the appropriate guideline to apply when considering municipal polling districts and school board electoral districts. The cumulative effect of the Board's decisions on the municipal polling district reviews was the elimination of a considerable number of polling districts and a corresponding reduction in the number of councillors.

In 1993 and 1994, pursuant to the **School Board Act** (now the **Education Act**), the Board conducted the first reviews of the electoral districts of the then 22 school boards. When the school boards were amalgamated in 1996, the Board conducted further hearings to set the new electoral districts for the seven amalgamated boards. Following the release of the Report of the Task Force on the Review of School Board Boundaries in February, 2000, the Board again reviewed the school board electoral districts.

In 1999/2000 the Board was again required to review municipal polling districts. In addition to the rural municipalities, for the first time the Board was required to review the wards or polling districts in the towns and regional municipalities, a total in all of 55 municipal units. The Board conducted many of the hearings by telephone conference except where it was advised in advance that there was opposition to the application.

Applications for the next periodic review of municipal polling districts must be filed by the end of 2006. Applications for the next School Board reviews must be filed by 2007.

SUPPORT OF OTHER AGENCIES

The Board provides financial services, computer systems support and limited administrative support to the Freedom of Information and Protection of Privacy Review Officer and, during part of the relevant time period, the Board provided office space to the Review Officer.

The Nova Scotia Police Commission shares space at the Board's offices and the Board provides financial services, computer systems and some administrative support to the Commission.

The Motor Carrier Division plays an active role in the School Bus Bulk Purchase Program along with the Department of Education.

CONTACTING THE BOARD

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Appendix A - List of Related Statues

Assessment Act, R.S.N.S. 1989, c.23
Education Act, S.N.S. 1995-96, c.1
Expropriation Act, R.S.N.S. 1989, c.156
Gaming Control Act, S.N.S. 1994-95, c.4
Gas Distribution Act, S.N.S. 1997, c.4
Halifax-Dartmouth Bridge Commission Act, R.S.N.S. 1989, c.231
Heritage Property Act, R.S.N.S. 1989, c.199
Insurance Act (auto insurance only), R.S.N.S. 1989, c.231
Motor Carrier Act, R.S.N.S. 1989, c.292
Motor Vehicle Transport Act, 1987, S.C. 1987, c.35 (Federal)
Municipal Government Act, S.N.S.1998, c.18
Nova Scotia Power Privatization Act, S.N.S. 1992, c.8
Petroleum Resources Removal Permit Act, S.N.S. 1999, c.7
Pipeline Act, R.S.N.S. 1989, c. 345
Public Utilities Act, R.S.N.S. 1989, c.380
Regional Transit Authority Act, S.N.S. 1989, c.38
Revenue Act, S.N.S. 1995-96, c.17,
Shopping Centre Development Act, R.S.N.S. 1989, c.427
Theatres and Amusements Act, R.S.N.S. 1989, c.466
Utility and Review Board Act, S.N.S. 1992, c.11,
Victims' Rights and Services Act, R.S.N.S. 1989, c.14

Appendix B - List of Regulated Utilities

Electric Utilities
Nova Scotia Power Incorporated
Antigonish Electric Utility
Berwick Electric Light Commission
Canso Electric Light Commission
Lunenburg Electric Utility
Mahone Bay Electric Utility
Riverport Electric Light Commission

Water Utilities
Cape Breton Regional Municipality Water Utility
Halifax Regional Water Commission
Town of Amherst Water Utility
Town of Annapolis Royal Water Utility
Municipality of the County of Antigonish (Fringe Area, St. Andrews, Lr. South River)
Town of Antigonish Water Utility
The Village Commissioners of Baddeck Water Utility
The Village Commissioners of Bible Hill Water Utility
Town of Bridgetown Water Utility
Bridgewater Public Service Commission
The Village Commissioners of Canning Water Utility
Town of Canso Water Utility
Cornwallis Park Water Utility
Town of Digby Water Utility
Dingwall Water Utility
East Hants Regional Water Utility
Falmouth Water Utility
Granville Ferry Water Utility
Greenwood Water Utility
Town of Hantsport Water Utility
Hazel Hill Water Utility
Inverness County Water Utility
Kentville Water Commission
The Village Commissioners of Lawrencetown Water Utility
Little Narrows Water Utility
Liverpool Water Utility
Town of Lunenburg Water Utility
Town of Mahone Bay Water Utility
Margaretsville Water Utility
Town of Middleton Water Utility
Town of Mulgrave Water Utility
Neil's Harbour/New Haven Water Utility

Town of New Glasgow Water Utility
The Village Commissioners of New Minas Water Utility
Town of Oxford Water Utility
Town of Parrsboro Water Utility
Pictou County Water Utility
Town of Pictou Water Utility
Town of Port Hawkesbury Water Utility
Village of Port Williams Water Utility
Richmond County Water Utility
Town of Shelburne Water Utility
Sherbrooke Water Utility
Shubenacadie Water Utility
Town of Springhill Water Utility
Town of Stellarton Water Utility
Town of Stewiacke Water Utility
The Village Commissioners of St. Peter's Water Utility
The Village Commissioners of Tatamagouche Water Utility
Three Mile Plains/Wentworth Water Utility
Town of Trenton Water Utility
Town of Truro Water Utility
Town of Westville Water Utility
Town of Wolfville Water Utility
Town of Windsor Water Utility
Town of Yarmouth Water Utility